DEPARTMENT OF THE ARMY
SOUTH ATLANTIC DIVISION, CORPS OF ENGINEERS
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ATLANTA, GEORGIA 30303-8801

REPLY TO
ATTENTION OF

RECORD OF DECISION

FORT PIERCE SHORE PROTECTION PROJECT
DREDGING OF CAPRON SHOAL
St. LUCIE COUNTY, FLORIDA

We have reviewed the Final Environmental Impact Statement (FEIS), dated December 2002, for the continued dredging of Capron Shoal to obtain material for storm damage prevention on 1.3 miles of shoreline south of Fort Pierce Inlet, as well as pertinent correspondence and related documents for the current project. I have determined that the project should proceed as outlined therein. I find the recommended plan to be based on an analysis of the available alternatives relative to applicable considerations, including engineering, economics, social criteria, and the environment.

The Fort Pierce Shore Protection project was authorized by the River and Harbor Act of 1965 (79 Stat. 1089, 1092) in accordance with the recommendations of the Chief of Engineers in House Document 84, 89th Congress. The authorization provided for the restoration of 1.3 miles of shoreline south of Fort Pierce Inlet and for periodic nourishment as needed for a period of 10 years following initial project construction. This period was extended to fifty years under Section 156 of the Water Resources Development Act of 1976 (PL 94-587), as amended by Section 934 of the 1986 Water Resource Development Act (PL 99-662). The authorized Fort Pierce, Florida SPP provides for a 50-foot protective berm extending 1.3 miles from the south Fort Pierce Inlet jetty to Surfside Park. The source of sand identified for construction and periodic renourishment of the project was Capron Shoal, which was determined to be the most suitable and sustainable sand source for the life of the project. The National Environmental Policy Act (NEPA) review was initially completed in September 1998 when the Jacksonville District Commander signed a Finding of No Significant Impact.

Project construction work began in February of 1999. The project was within two weeks of completion when a lawsuit was filed (Judith Winston, et al., v. Lt. Gen. Joe. N. Ballard, Docket No. CA 99-0533) seeking a Temporary Restraining Order (TRO) against the project. The suit alleged that the US Army Corps of Engineers (USACE) did not conduct a thorough National Environmental Policy Act (NEPA) analysis, and further alleged that immediate and irreparable harm to recently discovered bryozoan would result if dredging continued. The court issued a TRO on March 5, 1999. Subsequently, the USACE and the petitioners reached a Settlement Agreement which committed the USACE to: (1) conduct additional NEPA analysis before beginning the next renourishment; (2) perform bryozoan (phylum ectoprocta/entoprocta) occurrence studies of Capron and nearby shoals (in the amount of $200,000); and (3) conduct surveys of the effect of the initial beach nourishment on the nearshore hard bottom (in the amount of $100,000). The studies were completed and are included as Appendices C and D of the FEIS.

While the bryozoan studies were not entirely conclusive, they represent a substantial effort and contribute to the knowledge of the occurrence and distribution of most of these organisms previously only found at Capron Shoal. Most of the new species were found on the other four shoals that were sampled. Although not ecologically significant, shoals B and St. Lucie supported a greater abundance than Capron Shoal. Despite some limitations in the studies that are fully discussed in the FEIS and supporting correspondence and documentation, the level of effort to locate and identify these organisms fulfilled the terms and conditions of the settlement agreement.

Prior to filing the lawsuit, the plaintiffs had also petitioned the National Marine Fisheries Service (NMFS) to emergency list the recently discovered bryozoan species as endangered under the Endangered Species Act. In a May 28, 1999 Federal Register notice, NMFS declined the request, finding that the petition did not present substantial scientific or commercial information to warrant the petitioned action. Other reasons included: sampling limitations; presence of nearby shoals for the organisms to inhabit; morphological plasticity (individuals or colonies of a particular species may vary considerably in their appearance) and fundamental uncertainty about the taxonomy of bryozoans; and species in question do not appear to be closely related to *Bugula neritina* which is being studied as an anti-cancer agent.

This FEIS evaluated two action alternatives for sand borrow sources as well as the No-Action Alternative for future work on the project. As a result, Capron Shoal was identified as the preferred alternative sand source for the project. The removal of sediment from Capron Shoal would affect the habitat of recently discovered microscopic bryozoans originally thought to occur at no other location. Studies conducted after the Settlement Agreement revealed that the majority of these species do occur on other area shoals. Other species may be present at Capron Shoal and other shoals in the area but were not observed because of difficulty in sampling these cryptic organisms. Temporary impacts to about 7.8 acres of exposed limerock (hard bottom) by sand placement on the beach and increased turbidity are unavoidable. These ephemeral effects will be mitigated by a Florida Department of Environmental Protection approved plan which includes 5 acres of hard bottom habitat creation for the current and future beach renourishments.

All practicable means to avoid and/or minimize adverse environmental impacts have been incorporated into the authorized project plan. To mitigate for temporary impacts to about 7.8 acres of intertidal and nearshore hard bottom habitat, 5 acres of nearshore reef will be constructed. Consultation under Section 7 of the Endangered Species Act was completed and all terms and conditions required in the US Fish and Wildlife Service Biological Opinion will be followed, and the recommendations of the National Marine Fisheries Service's letter dated May 30, 1998 will be addressed. To minimize impacts to sea turtles, construction activities will not be conducted subsequent to May 30 during the peak nesting and hatching season. If the nourishment activities occur during the early part of the nesting season after March 1, surveys for nesting sea turtles will be conducted. If nests are found within the area of construction and prior to the next three consecutive nesting seasons, the nourished beach will be monitored for compaction and escarpments, and tilled as needed.

Upon review of the FEIS, the Florida State Clearinghouse in an October 25, 2002 issue, determined that the FEIS is consistent with the Florida Coastal Zone Management Program. Analysis indicates that all work will be accomplished in compliance with all applicable state water quality standards. Water quality certification per Section 401 of the Clean Water Act will be obtained from the Florida Department of Environmental Protection before any work is initiated. No cultural or archeological resources are likely to be impacted. Technical and economic criteria used in the formulation of the alternative plans were those specified in the Water Resources Council's Principles and Guidelines. All applicable laws, executive orders, regulations, and local plans were considered in evaluating the alternatives. The plan contains recommendations for mitigation that will avoid, minimize and compensate for adverse environmental impacts.

Based on the above, I find that the shore protection benefits gained by construction and renourishment of the Fort Pierce Shore Protection project outweigh any adverse effects. Specifically, I find that Capron Shoal is the most appropriate source of sand material for the project. The authorized plan is technically sound, economically justified, and in accordance with environmental statutes. In summary, I find that the recommended plan as presented in the FEIS and appropriate supporting documentation is the most feasible solution and represents the course of action that, on balance, best serves the overall public interest.

21 Feb 03
Date

Peter T. Madsen
Brigadier General, US Army
Commanding